



KANSAS CITY, MO. POLICE DEPARTMENT

PROCEDURAL INSTRUCTION

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SUBJECT

State Search Warrant Procedures

AMENDS

REFERENCE

RSMo 542.266, 542.271, 542.276, and 542.291

PI: Arrest Guidelines/Procedures; Arrest Guidelines-Possession of Controlled Substance; Detaining & Questioning and Search & Seizure Procedures; Property Seizure and Forfeiture; Recovered Property Procedures

RESCINDS

PI 09-14

DM 15-02

I. INTRODUCTION

This written directive provides guidelines and procedures for obtaining, serving, and executing search warrants by department members.

***II. TERMINOLOGY**

- A. **Affidavit** – A sworn statement verified by oath or affirmation.
- B. **Contraband** – Items or property that are illegal to possess or transport.
- C. **Fruits of Crime** – The results of a criminal act. It is the material objects acquired in consequence of commission of a crime (i.e., stolen money).
- D. **Instruments of Crime** – Anything commonly used for criminal purposes and possessed by a person under circumstances not manifestly appropriate for lawful uses it may have. (e.g., weapon, burglary tools, stun guns).
- E. **Search Warrant** – Written order of a court commanding the search of a person, place, or thing and the seizure, or photographing or copying, of property found thereon or therein (RSMo 542.266).

***III. GUIDELINES**

- A. A search warrant may be issued by a court upon the showing of probable cause and upon meeting certain other conditions.
- B. Obtaining a search warrant requires a sworn member or prosecuting attorney to submit to a court a written application including an affidavit. The affidavit must describe with particularity the place to be searched to include:
 - 1. the address and a physical description of the premises, and
 - 2. items to be searched for, and
 - 3. must set forth probable cause for the warrant.

- C. Warrant applications and affidavits prepared by a sworn member must be reviewed by a prosecuting attorney prior to submission to a court.
1. If the court believes the requirements for a warrant have been met, a judge will sign a warrant.
 2. A search warrant should be obtained in the county where the search is to occur.

IV. TABLE OF ANNEXES

This directive is arranged in annexes for easy reference.

Annex A	Search Warrant Application Process
Annex B	Pre-Execution of the Search Warrant
Annex C	Execution of the Search Warrant
Annex D	Post-Execution of the Search Warrant
Annex E	Requests to Serve/Execute Search Warrants by Outside Agencies

Darryl Forté
Chief of Police

Adopted by the Board of Police Commissioners this ____ day of _____ 2015.

Alvin Brooks
President

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SEARCH WARRANT APPLICATION PROCESS

- *A. A search warrant allows a sworn member to search for and seize, video, photograph, copy, or record, any property, article, material, or substance, which constitutes evidence of the commission of a criminal offense (RSMo 542.271).
 - 1. This includes fruits of a crime, instruments of a crime, and other evidence (items relevant to a crime).
 - 2. A search warrant also allows a sworn member to search for kidnapped persons, persons with valid outstanding felony warrants, or a deceased human fetus or corpse, or part thereof.
- B. For guidelines regarding federal law violations for which a search warrant may be obtained, the investigative element supervisor will contact the appropriate federal agency for assistance.
- C. Personnel assigned to the Investigations Bureau, the Special Operations Division, or a Property Crimes Section are responsible for obtaining and coordinating the execution of all search warrants.
- *D. The appropriate prosecuting attorney or Office of the General Counsel should be consulted for clarification on any legal matters relative to obtaining and executing search warrants prior to the execution of the warrant.
- E. When a sworn member believes probable cause exists for the application of a search warrant, consent must be obtained from an element supervisor/commander before contacting the applicable investigating element.
 - 1. If a search is warranted, personnel assigned to the Investigations Bureau, Special Operations Division, or a Property Crimes Section will prepare the following:
 - a. Application for Search Warrant, State Form OSCA-CR20, and
 - b. Search Warrant, State Form OSCA-CR160.
 - 2. The forms will include the appropriate supporting data and be presented to the appropriate prosecutor's office for signature.
 - *3. Sworn members are to submit all search warrant documentation as dictated by each appropriate counties' process (electronic or paper version). Members should refer to the User Guides located on the department intranet for instructions on how to complete an electronic search warrant.

PRE-EXECUTION OF THE SEARCH WARRANT

- A. The commander of the element responsible for the execution of the warrant will assign a supervisor/commander (Sworn Member-in-Charge) to be in charge of all matters pertaining to the execution of the warrant, (i.e., coordinating with other unit commanders for the use of uniformed entry personnel, Crime Scene Investigators, or HazMat personnel).
- B. The Sworn Member-in-Charge will:
- *1. Ensure the address and description of the place to be searched reflected on the warrant matches the address and description of the place to be searched that is set forth on the sworn member's application and affidavit presented to the court.
 - *2. Ensure the warrant is signed by a judge. Unsigned warrants are *per se* invalid and should not be executed.
 3. Ensure that the address of the location to be searched, as well as the name of the owner or occupants, is checked through the computer for wants or warrants.
 4. Ensure that "Safetynet Deconflictions" are conducted to determine if there are case linkages or on-going investigations.
 5. Request the Communications Unit supervisor to assist in contacting appropriate supervisors/commanders, if needed.
 - *6. When practical and prior to the execution of the search warrant, have photographs taken of the exterior of the structure or area to be searched, as well as area diagrams prepared to assist in effectively executing the search warrant.
 - a. When applicable, video will be taken.
 - b. These photographs, videos, and diagrams will be maintained in the case file of the respective investigative element requesting them.
 - *7. Determine the number of personnel required to effectively execute the warrant.
 - a. When applicable, uniformed/tactical sworn members will be used for making entry during the execution of search warrants.
 - b. Not every search warrant will require the presence of uniformed/tactical entry personnel (e.g., warrants served on a safe deposit box or an impounded vehicle).
 8. Conduct a thorough briefing prior to the execution of the search warrant. The briefing should include all available information, descriptions, assignments, and instructions that may affect the execution.

9. Identify problem areas where the public could be exposed to danger. Tactical plan development and implementation should minimize or eliminate danger to the public (e.g., stopping traffic, evacuation of nearby residences).
10. Ensure that all necessary equipment and supplies needed to safely execute the search warrant are assembled (e.g., flashlights, protective vests, report forms, property tags).
11. Prior to initiating efforts to gain entry at the location to be searched, notify the appropriate zone dispatcher, via telephone, of the location and time that the warrant is to be executed and the radio frequency to be used. If there is a possibility of forced entry, a "Special Operations" radio frequency may be requested through dispatch to reduce outside radio interference.

EXECUTION OF THE SEARCH WARRANT

- *A. A Search Warrant must be executed as soon as practical and shall expire if it is not executed and the return made within ten (10) days after the date of the making of the application. The Application of Search Warrant, State Form OSCA-CR20, and the Search Warrant, State Form OSCA-CR160 will be returned to the judge who issued the warrant. (RSMo 542.276.8 & 9)
- B. Expired warrants are *per se* invalid and should not be executed.
- C. Searches for, and seizures of property will be conducted in a manner which is in compliance with all federal and state legal requirements to ensure the admissibility of evidence in a court of law. For further information, refer to the current written directive entitled, "Detaining & Questioning and Search & Seizure Procedures."
- D. Searches pursuant to warrants shall be conducted in a reasonable manner and may be made at night if conducting it during the daytime is not practicable (RSMo 542.291.1).

[REDACTED]

[REDACTED]

- *E. Knock and Announce
 - 1. The U.S. Supreme Court ruled that search warrant and arrest warrant entries must be preceded by a knock and an announcement.
 - a. There are no "blanket exceptions" to the rule.
 - b. The only exception is where the sworn member can reasonably establish one of the three factors listed below:
 - (1) Circumstances exist that present a threat of physical violence.
 - (2) When a prisoner escapes and retreats to their dwelling.
 - (3) Reasonable belief that evidence is being or may be destroyed.

2. The detention of the occupants of a premise during the execution of a valid search warrant is authorized based on the substantial justification of:
 - a. preventing flight in the event incriminating evidence is found, and
 - b. minimizing the risk of harm to the sworn members or other persons, and
 - c. facilitating the orderly completion of the search.
3. Sworn members may generally ask questions of a detained person during an execution of a search warrant without the need for reasonable suspicion.
4. Any report involving a forced entry or search warrant entry will indicate that entry personnel knocked and announced prior to entry.
 - a. The report should indicate approximately how long entry personnel waited from the time they knocked until they forced entry.
 - b. Sworn members should be prepared to fully justify the amount of time in which they waited.

*F. A judge may authorize a **“No-Knock”** entry warrant.

1. When a warrant application establishes that some exigent circumstance exists or that knocking would be futile, a judge may authorize a “no-knock” entry at the time the warrant is issued.
 2. If circumstances support a reasonable suspicion of some exigent circumstance when the sworn members arrive at the door, they may dispense with the “knock and announce” requirement.
- G. After entry has been gained, entry personnel will conduct a protective sweep to ensure that all persons present are brought under control. These personnel will maintain control of all persons present and provide security at any entrances/exits to eliminate any unauthorized persons from entering/leaving the scene.
- H. If, during the execution of a search warrant, and prior to finding the property listed thereon, other evidence or contraband is located; such property may be seized if one of the following conditions is present:
1. The property is either in plain view from a location where the sworn member(s) has a legal right to be, or in a place where the sworn member(s) may reasonably search for the items listed in the search warrant.
 2. Items are immediately recognizable as contraband (e.g., illegal weapons, illicit drugs). For further information, refer to the current written directive entitled, “Property Seizure and Forfeiture.”

- I. When personnel executing a search warrant seize any evidence that is related to a crime but is not normally investigated by their element of assignment, the supervisor/commander of the appropriate investigative element will be contacted from the scene. For further information refer to the current written directive entitled, "Recovered Property Procedure."
- J. When executing a search warrant, be aware of the Exclusionary Rule.
 - 1. The rule that any evidence secured by illegal means and in bad faith cannot be introduced in a criminal trial.
 - 2. A technical error in a search warrant made in good faith will not cause exclusion of the evidence obtained under that warrant.
- K. Upon rendering the area safe, entry personnel will notify investigative personnel that they may enter and conduct their investigation.
- L. Investigative personnel will not enter the area until so notified. Police identification cards and/or badges will be worn and displayed in plain view by all non-uniformed investigative personnel during the execution of a search warrant.
- M. A copy of both, the Search Warrant, State Form OSCA-CR160, the Return/Receipt for Search Warrant, Form 264 P.D., and if applicable, the Return/Receipt for Search Warrant Supplemental, Form 264A P.D., will be left with the person in charge of the premise.
- N. If no person is present, copies of the above forms will be left in plain view, at the site of the search (RSMo 542.291.4).
- O. Prior to relinquishing custody of the scene, entry personnel will ensure that all serving/executing tasks have been completed.
- *P. If the premise was unoccupied at the time of executing the warrant, or is to be left unoccupied at the conclusion of executing the warrant, entry personnel will make reasonable efforts to secure the premise.
- Q. All arrests will be handled in accordance with the current written directives entitled, "Arrest Guidelines/Procedures" and "Arrest Procedures - Possession of Controlled Substance."

POST-EXECUTION OF THE SEARCH WARRANT

- A. Sworn members should carefully document in detail any exigent circumstances which were present at the time of the execution of the search warrant in any report completed following the service of the warrant.
- *B. The Return/Receipt for Search Warrant, Form 264 P.D. of seized property shall be delivered to the prosecutor's office in the county where the property was seized within two (2) working days of the service of the warrant (RSMo 542.291) to include copies of the following:
 - 1. Application of Search Warrant, State Form OSCA-CR20
 - 2. Search Warrant, State Form OSCA-CR160
 - 3. If applicable, Return/Receipt for Search Warrant Supplemental, Form 264A
- *C. A search and subsequent searches of the contents of any property, article, material, or substance ("items") listed on a search warrant may be conducted:
 - 1. At any time during execution of the warrant, while still on the scene.
 - 2. After the item has been seized and removed from the scene, subject to the continued existence of probable cause to search the items.
 - 3. After the time for delivering the warrant, return, and receipt to the issuing judge has expired, subject to the continued existence of probable cause to search the items.
- D. A Return/Receipt for Search Warrant, Form 264 P.D., and if applicable, the Return/Receipt for Search Warrant Supplemental, Form 264A, shall be delivered to the issuing judge (e.g. computer media searches) upon final completion of any search which concludes after the expiration of time for delivering the original return and receipt (RSMo 542.276).
- *E. For information regarding all property seized under the warrant members should refer to the current written directive entitled, "Property Seizure and Forfeiture."

REQUESTS TO SERVE/EXECUTE SEARCH WARRANTS BY OUTSIDE AGENCIES

- A. When an outside agency requests assistance in serving a search warrant within Kansas City, Missouri, every effort will be made to assist them in the timely execution of the warrant.
- B. Requests for assistance will be referred to the appropriate element that would investigate the type of crime that has resulted in the search warrant being issued.
 - 1. During hours when a representative of the appropriate element is not available, the agency will be referred to the Patrol Bureau Duty-Officer who will contact a supervisor/commander from the appropriate element.
 - 2. The supervisor/commander will determine if the circumstances warrant the deployment of personnel required to effectively execute the warrant.
- C. When it is determined that the search warrant will be executed, established procedures listed in Annex's B, C, and D, of this written directive, will apply. Any exceptions to the procedures of this written directive, involving the execution of outside agencies search warrants will be approved by the appropriate bureau commander.
- D. An official from the outside agency will be present at the location, but will not participate in the execution of the search warrant.
- E. All property recovered and suspects arrested will be processed in accordance with current department procedures.